Agenda Item #5

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners

From: Commission Staff

Date: December 12, 2012

Re: Request for Waiver of Penalty by the L PAC

L PAC is a federally registered political action committee formed in April 2012[1] to support pro-lesbian candidates and ballot questions on the federal, state and local level. According to its website, L PAC has sought "to identify key state, federal, and ballot campaigns that will define the 2012 elections and where L PAC will have the most significant impact." On September 12, 2012, it posted an invitation on its Facebook page soliciting contributions to support Question 1, the same-sex marriage citizen initiative, on the November 6th ballot. To encourage contributions, L PAC said that contributions to support Question 1 would be matched by a member of L PAC's board, Laura Ricketts, up to $25,000. L PAC registered as a Maine political action committee[2] and filed its initial report on October 15, 2012. According to the information contained in the initial report and its written response, L PAC received more than $5,000 in contributions to influence the Maine election on September 16, 2012. Under Maine election law, L PAC should have registered and filed an initial report on September 23, 2012. L PAC was also late in filing another campaign finance report due October 5. L PAC was also late in filing a third campaign finance report due October 26 for reasons unrelated to the late registration.

[1] L PAC filed its Statement of Organization with the Federal Election Commission on April 20, 2012.
[2] L PAC filed the registration form for a political action committee. However, it should have registered as a ballot question committee. The staff accepted the registration and established L PAC as a ballot question committee in the electronic filing and disclosure system.

L PAC requested a waiver of the preliminary penalties on November 7 and November 16, respectively. After reviewing the requests, the Commission staff was not satisfied that it had enough information to accurately assess the degree to which L PAC was out of compliance with its registration and reporting requirements. On November 30, Commission staff requested additional information from L PAC. The information presented in L PAC's December 7 response led Commission staff to adjust the dates on which L PAC was required to register and file an initial report. This led to a downward revision in the preliminary penalty amounts. The changes to the initial penalty amounts are discussed in the "Adjustment of Preliminary Penalty for Initial Report" section below. All other dates and amounts in the memo are based on current information.

Late Registration

L PAC exceeded $5,000 in contributions for the purpose of influencing the Maine ballot question on September 16, 2012. Under Maine law, an organization that raises or spends more than $5,000 to influence a ballot question must register as a ballot question committee within 7 days of meeting that threshold. (21-A M.R.S.A. § 1056-B) Therefore, L PAC was required to register with the Commission on September 23, 2012.

First Late Report – Initial Campaign Finance Report

Along with the registration, L PAC was also required to file an initial campaign finance report disclosing all contributions received and expenditures made as of the date of the report. (21-A M.R.S.A. § 1059) Based on the dates of contributions received by L PAC, the Commission staff calculated that the initial report should have included $14,900 in contributions. L PAC had no expenditures in the relevant reporting period. The initial report disclosing these contributions that L PAC did file on October 15 was 22 days late.

Second Late Report – October Quarterly Report

L PAC was also required to file a quarterly report due October 5 that would have included all financial activity from September 24 to September 30. Instead, this information was included in the report filed on October 15, ten days late. Based on the dates of contributions received by L PAC, the Commission staff calculated that the October Quarterly Report should have included $100 in contributions. No expenditures were made.

Third Late Report – 11-Day Pre-General Election Report

L PAC should have filed an 11-Day Pre-General Election Report on October 26, 2012, disclosing all financial activity from October 1 through October 23, 2012. While L PAC did not receive any contributions during this reporting period, it did make a single contribution of $40,000 to Mainers United for Marriage on October 5.[3] The report was filed on October 30, four days late.

Adjustment of Preliminary Penalty for Initial Report

Based on the information contained in the campaign finance report L PAC filed on October 15, the preliminary penalty amount for the late-filed initial campaign finance report was $9,674.10. In its report, L PAC reported receiving a contribution of $25,000 on July 11, 2012 from Laura Ricketts, an L PAC advisory board member. According to L PAC, this contribution was erroneously reported. L PAC, however, has given two different explanations of the contribution. A letter dated November 19 from Sarah Schmidt (attached), the Chair and Treasurer of L PAC, stated that Ms. Ricketts made a contribution of $35,000 to L PAC's general treasury on July 11, 2012. Ms. Schmidt stated that the contribution was not specifically for the purpose of influencing the outcome of Question 1, but L PAC's board later decided to use $25,000 of that contribution for the Mainers United for Marriage "matching challenge." However, in a response to additional questions from the Commission staff dated December 7, 2012 (attached), L PAC, through its attorney Kate R. Knox, Esq., stated that the "matching challenge" contribution from Ms. Ricketts was received on October 26 as part of a larger contribution to the PAC. In this description, the $25,000 was intended specifically for the purpose of influencing the Maine election.

[3] The contribution of $40,000 to Mainers United for Marriage was reported in L PAC's initial report. But because of the date of the contribution, it was required to be reported in the 11-Day Pre-General report.

The staff finds the latter explanation of Ms. Ricketts' contribution more plausible given the dates on which the Facebook appeal began (9/12), Ms. Ricketts' solicitation on Facebook appeared (9/18), and the contribution to Mainers United was made (10/5).

The December 7 response from L PAC also noted that the September 11, 2012 contribution of $5,025 from Joy Tomchin was a portion of a $15,000 contribution and was not intended by Ms. Tomchin for the purpose of influencing the Maine election. Rather, L PAC's board made the decision to use the contribution to support the Maine election without consulting with Ms. Tomchin.

Given that Ms. Tomchin's contribution was in fact a general treasury transfer rather than a contribution made for the purpose of influencing Question 1, the staff did not include it in determining when L PAC was required to register but did include it in determining the preliminary penalty calculation for the late-filed Initial Report.

If the Commission believes that more information is necessary with respect to the Ricketts or Tomchin contributions, the staff will undertake any additional fact-finding as directed by the Commission.

Preliminary Penalties

Based on the statutory formula for calculating penalties for late-filed registrations and reports (21-A M.R.S.A. § 1062-A(1) & (3)), the preliminary penalty amounts are as follows:

Report	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
Registration	n/a	n/a	22	$250
Initial campaign finance report (due 9/23)	$14,900.	1%	22	$3,278
October Quarterly Report (due 10/5/)	$100	3%	10	$30
11-Day Pre-General Election Report (due 10/26)	$40,000	5%	4	$8,000
				$11,558

Request for Waiver of Penalty

Through its attorney, Kate R. Knox, Esq., L PAC concedes that it was late in registering and filing its Initial, October Quarterly and 11-Day Pre-General Election Reports with the Commission. However, L PAC requests a reduction of the preliminary penalty amounts of the late filed Initial and October Quarterly Reports due to mitigating circumstances. Specifically, Ms. Knox points to the unintentional nature of the late filings, the inexperience of the L PAC treasurer, L PAC's misunderstanding of and lack of familiarity with Maine's campaign finance laws, and the lack of harm to the public.

Ms. Knox states that L PAC was newly formed in June of 2012[4] and no one in the PAC had experience with campaign finance laws. L PAC's treasurer, Sarah Schmidt, had no experience with campaign finance laws in general or with Maine's specifically.

Although L PAC contacted its attorney, Neil Reiff, Esq., of the Washington, D.C. law firm Sandler, Reiff, Young & Lamb, regarding compliance with Maine's campaign finance laws, it did not inform him about its Maine-specific fundraising efforts. It apparently did not occur to L PAC to bring up the posts on its Facebook page with its attorney. L PAC did not understand that by soliciting and accepting contributions through Facebook specifically to make a contribution to Mainers United for Marriage, the PAC may be required to register in Maine. Accordingly, Mr. Reiff's office could not give the Commission staff complete information when it contacted the staff for advice. The staff's advice was based on the scenario presented by Mr. Reiff's office. Unfortunately, the actual facts were quite different.

L PAC reported all contributions received by L PAC and its $40,000 contribution to Mainers United for Marriage made on October 5, 2012 in a report filed with the Commission on October 15, 2012. This report contained a full list identifying the individual contributors to L PAC whose contributions funded the contribution from L PAC to Mainers United for Marriage. Ms. Knox argues that because this information was

[4] As noted above, L PAC filed a Statement of Organization with the Federal Election Commission on April 20, 2012.

complete and provided to the public more than three weeks before the election and that there was no intention to hide donors or delay disclosing LPAC's activities, the proposed penalties for the late-filed initial and October quarterly reports are disproportionate to the harm suffered by the public.[5]

With respect to the late-filed 11-Day Pre-General Election Report, Ms. Knox acknowledges that the report was filed 4 days late but argues that the preliminary penalty of $8,000 is disproportionately high given the lack of experience of the treasurer and the harm to the public. L PAC requests a full waiver of the preliminary penalty amount.

Due to a misunderstanding about reporting procedures, L PAC's treasurer filed an 11-Day Pre-General Election Report stating that L PAC had no financial activity to report. Her understanding was that only information <u>not previously reported</u> in another report should be listed. L PAC's only financial activity during the applicable reporting period (October 1 to October 23) was the $40,000 contribution to Mainers United for Marriage made on October 5. That contribution had been reported in L PAC's Initial Report filed on October 15. The treasurer did not understand that she had to re-report that contribution in the 11-Day Pre-General Election Report.

Ms. Knox argues that campaign finance reports are intended to inform the public in a timely manner about who is spending money on elections. In this case, L PAC disclosed its financial activity in the report filed on October 15. L PAC had no intentions of hiding anything from the public when it filed a "no activity" report because it believed it had already made the proper disclosure of the $40,000 contribution to Mainers United for Marriage. Ms. Knox contends that there was no harm to the public because the public had full access to L PAC's political activities in Maine at the time the 11-Day Pre-General Election Report was due.

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[5] In her waiver request, Ms. Knox refers to the combined preliminary penalty for the initial and October quarterly reports as $5,426.10. The actual combined penalty for those reports was revised by the Commission staff to $2,452.50.

Staff Recommendation

The staff believes that L PAC was sophisticated enough to understand that, prior to engaging in political activity in state elections, it should determine what it needs to do to comply with a state's campaign finance law. L PAC has a relationship with Sandler, Reiff, Young & Lamb, a Washington, D.C. law firm which specializes in campaign finance law. The staff does not know whether the firm has been advising L PAC about campaign finance compliance since its beginning. The firm, however, began advising L PAC at some point prior to the filing of L PAC's Registration and Initial report.

Despite the sophistication of L PAC's attorneys with regard to campaign finance laws, L PAC is a relatively new PAC and its treasurer's first experience with filing campaign finance reports was in Maine. The staff believes that this inexperience led L PAC to provide incomplete information to its attorneys, namely that it was raising money on Facebook to support a Maine election, which in turn led L PAC to file late Initial and October Quarterly reports.

Regarding the late 11-Day Pre-General Election report, there is sufficient reason to believe L PAC legitimately misunderstood its reporting obligations. Since the public had already been made aware of the $40,000 contribution to Mainers United for Marriage via L PAC's Initial report, L PAC's treasurer was under the mistaken impression that because there was no new activity to report, no report was required. When alerted that the 11-Day Pre-General Election report was late, Ms. Schmidt filed a no-activity report instead of reporting the previously disclosed transaction. After further clarification from the staff, the contribution to Mainers United for Marriage was reported correctly.

The staff's conversations and correspondence with the PAC's officials and its attorneys indicate that L PAC intended to provide full disclosure to Maine voters, and at no time intended to obscure or hide contributors or expenditures. In fact, the PAC's zeal for reporting led it to over-disclose its contributions: the $5,025 contribution from Joy Tomchin was reported on the Initial Report even though it was not given for the purpose of influencing the Maine election, and the $25,000 contribution from Laura Ricketts was reported three weeks before the election on October 15 even though it was not given to the PAC until October 26, 2012.

The overriding purpose of a campaign finance report is to make the public aware of campaign spending. The only late information presented to the public resulted from the late filing of the Initial and October Quarterly reports – filed concurrently. The information in the 11-Day Pre-General report was available to the public early.

For these reasons, the Commission staff recommends that the Commission find L PAC in violation for filing it registration late and for the late filing of the Initial, October Quarterly and 11-Day Pre-General Election campaign finance reports. Given the mitigating circumstances outlined above, however, the staff recommends that the Commission reduce the preliminary penalty for the late Registration and Initial and October Quarterly reports by 75 %, to $889.50. The staff recommends the Commission grant a 100% waiver of penalty for the 11-Day Pre-General report due October 26, because all of the financial activity that should have been included in that report was disclosed 11 days earlier on October 15.

Report	Preliminary Penalty	Recommended Reduction	Reduced Penalty
Registration	$250	75%	$62.50
Initial campaign finance report (due 9/23)	$3,278	75%	$819.50
October Quarterly Report (due 10/5)	$30	75%	$7.50
11-Day Pre-General Election Report (due 10/26)	$8,000	100%	$0
	$11,558		**$889.50**

Thank you for your consideration of this memo.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

REGISTRATION: POLITICAL ACTION COMMITTEES

A political action committee must register with the Commission within 7 days of making expenditures to influence an election, including unpaid obligations, or receives contributions that total more than:

- **$1,500 for an organization whose major purpose is to influence candidate or ballot question elections or**
- **$5,000 for organizations which participate in candidate elections but whose major purpose is something other than influencing candidate elections.**

An Initial Campaign Finance Report must accompany this form - Political Action Committees must report all contributions and expenditures, whether cash or in-kind, made since January 1st of the reporting year. Be sure to include expenditures such as those associated with the collection of signatures, paid staff time, travel reimbursement, and fundraising expenses.

Within 10 days of a change in PAC information an amended registration form must be submitted to the Commission. The committee must also file an updated registration every election year between January 1st and March 1st.

Is this an amendment? ☐ Yes ☒ No

ALL SECTIONS OF THIS FORM MUST BE COMPLETED.

COMMITTEE INFORMATION	
Committee name: L PAC	Acronym: LPAC
Mailing address: 601 13TH STREET, NW, SUITE 730N	Phone: (207) 522-4068
City, zip code: WASHINGTON, DC 20005	Fax:
E-mail: atrundy@yeson1maine.org	Website: http://www.teamlpac.com/

TREASURER INFORMATION	
Name: Sarah Schmidt	Phone: 847-920-5098
Mailing address: P.O. Box 8119	
City, zip code: Wilmette, IL 60091	E-mail: sarah@sarahschmidt.com

PRINCIPAL OFFICER INFORMATION	
Name: Sarah Schmidt	Title: Treasurer
Mailing address: PO Box 8119	Phone: (847) 920-5098
City, zip code: Wilmette, IL 60091	
Name:	Title:
Mailing address:	Phone:
City, zip code:	

To receive fi[illegible] reminders and important information from the [illegible]mmission.

1. kgrainger@civitaspublicaffairs.com	2.

PRIMARY FUNDRAISERS AND DECISION MAKERS

Identify any candidates, Legislators or other individuals who are the primary fundraisers and decision makers for the committee.

1.	2.
3.	4.
5.	6.

COMMITTEE MAILING ADDRESS

Correspondence will be mailed to this address.

Street address or PO Box
601 13TH STREET, NW, SUITE 730N

City, zip code
Washington, DC 20005

FORM OF ORGANIZATION

Name the form or structure of organization, i.e., cooperative, corporation, voluntary association, partnership, etc.

Form of organization	Date of origin/incorporation
Political Action Committee	April 20, 2012

STATEMENT OF SUPPORT OR OPPOSITION

Indicate whether the committee supports or opposes a candidate, political committee, referendum, initiated petition or campaign. If unknown at the time of registration, the committee must inform the Commission as soon as this information is known.

SUPPORT	Mainers United for Marriage
OPPOSE	

SIGNATURE OF PRINCIPAL PAC OFFICER OR TREASURER

Signature	Title
Print name	Date

IMPORTANT NOTICE:

An initial campaign finance report must be filed with the Commission at the time of registration.

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2012 CAMPAIGN FINANCE REPORT

For Political Action Committees

Please complete ALL entries.

NAME OF COMMITTEE	L PAC			☐ CHECK IF CHANGED FROM PREVIOUS REPORT
STREET	601 13TH STREET, NW, SUITE 730N			
CITY AND ZIP CODE	Washington, DC 20005	TELEPHONE NUMBER	(207) 522-4068	
E-MAIL	atrundy@yeson1maine.org			
NAME OF TREASURER	Sarah Schmidt			☐ CHECK IF CHANGED FROM PREVIOUS REPORT
MAILING ADDRESS STREET	P.O. Box 8119			
CITY AND ZIP CODE	Wilmette, IL 60091	TELEPHONE NUMBER	sarah@sarahschmidt.com	
E-MAIL	sarah@sarahschmidt.com			

Type of Report	Due Date	Dates of Report Period
☒ Initial	Date of Registration	January 1, 2012 — date of registration
☐ April Quarterly	April 10, 2012	January 1, 2012— March 31, 2012
☐ 11-Day Pre-Primary	June 1, 2012	April 1, 2012 — May 29, 2012
☐ 42-Day Post-Primary	July 24, 2012	May 30, 2012 — July 17, 2012
☐ October Quarterly	October 5, 2012	July 18, 2012 — September 30, 2012
☐ 11-Day Pre General	October 26, 2012	October 1, 2012— October 23, 2012
☐ 42-Day Post-General	December 18, 2012	October 24, 2012 — December 11, 2012
☐ January Quarterly	January 15, 2013	December 12, 2012— December 31, 2012

☐ Amendment to: ______________________

☐ No Activity Report: Use only if the committee had no contributions and no expenditures and did not incur any unpaid debts or obligations during the reporting period. Check the appropriate report above as well.

☐ Termination Report: If the committee will have no further activity. Check the appropriate report above as well.

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

[signature] 10/12/12

Treasurer's Signature — Date

SCHEDULE A
CASH CONTRIBUTIONS

- For contributors who gave more than $50, the committee must report the contributor's name, address, occupation, and employer.
- If employment information has been requested from the contributor and the contributor has not provided it, indicate "information requested" for the occupation and employer.
- For cash contributions totaling $50 or less, please enter "unitemized contributions" as the contributor and the total amount and the appropriate key code on a line on this page. Once a contributor has given the committee more than $50 in a report period, you must list that contributor separately.

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
09/12/2012	Nancy Achilles, 411 Burnett Avenue, San Francisco, CA 94131	Writer, Self Employed	1	155.00
09/20/2012	Nancy Achilles, 411 Burnett Avenue, San Francisco, CA 94131	Writer, Self Employed	1	200.00
09/16/2012	Mike Antkowiak, 1325 Hollywood Avenue, Dallas, TX 75208	Software Consultant, Workhorse Consult Inc.	1	500.00
09/20/2012	Dorothy Bailey, 2521 N Ashland Ave. Unit 3, Chicago, IL 60614	Benefits Supervisor, King County Washington	1	150.00
09/20/2012	Kym Boyman, 1391 Robinson Road, Ferrisburgh, VT 05456	Physician, Vermont Gynecology	1	150.00
09/20/2012	Richard Burns, 242 East 19th Street, Apt. 5D, New York, NY 10003	Interim CEO, Funders for LGBTQ Issues	1	100.00
09/16/2012	Linda Bush, 2942 4th Street, Boulder, CO 80304	Management Consultant, LCB Consulting LLC	1	500.00
			Total cash contributions (this page only) ⇒ ***(combined totals from all Schedule A pages must be listed on Schedule F)***	1755.00

Key Codes:

1 = Individuals
2 = Commercial Source
3 = Political Action Committees
4 = Party Committee
5 = Candidate Committees
6 = Unitemized Contributions of $50 or less

SCHEDULE A (continued)
CASH CONTRIBUTIONS

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
09/16/2012	Jackie Cuneo, 252 Chenery Street, San Francisco, CA 94131	Mortgage Banker/Broker, Opes Advisors	1	125.00
09/25/2012	Suzanne Dibble, 6519 Meadowridge Drive, Santa Rosa, CA 95409	Nurse, Retired	1	100.00
09/16/2012	Erin Esparza, 180 Montague Street, Brooklyn, NY 11201	Managing Director, TD Ameritrade	1	100.00
09/20/2012	Diane Goldsmith, 73 Shore Road, Westerly, RI 02891	Director, University of Rhode Island	1	150.00
09/12/2012	C. Lee Hazer, 4318 Taos Drive, San Diego, CA 92117	Business, Self	1	100.00
09/12/2012	Joanne Herman, 10 Nouvelle Way, Unit S909, Natick, MA 01760	Retired, None	1	100.00
09/20/2012	Gretchen Hoover, PO Box 1087, Rhinelander, WI 54501	Retired, None	1	1000.00
09/13/2012	Donna Johnson, 6019 Corbin Ave, Las Vegas, NV 89112	Social Worker, Veterans Affairs	1	55.00
09/19/2012	Ila Lewis, 246 Vernon Ave, Glencoe, IL 60022	Retired, None	1	150.00
		Total cash contributions (this page only) ⇒ ***(combined totals from all Schedule A pages must be listed on Schedule F)***		1880.00

Key Codes:

1 = Individuals

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6 = Unitemized Contributions of $50 or less

SCHEDULE A (continued)
CASH CONTRIBUTIONS

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
09/18/2012	Chastity Lord, 163 Washington Avenue, New York, NY 11205	Chief External Officer, Achievement First,	1	250.00
09/12/2012	Amy Mandel, 126 Nordic Trail, Asheville, NC, 28804	Retired, None	1	555.00
09/20/2012	Maryida Klimowicz, 1540 North Edgewood Street, Arlington, VA 22201	Physician, EMA	1	100.00
09/16/2012	Leigh Morgan, 5243 Locksley Avenue, Oakland, CA 94618	Consultant, Self	1	2500.00
09/12/2012	Daniel Patton, 628 13th Street, NE, Washington, DC 20002	IT Security, US Government	1	55.00
09/18/2012	Maryann Piazza, 5720 Tupelo Drive, Plano, TX 75024	Sales Support Manager, HP	1	50.00
07/11/2012	Laura Ricketts, 1615 W. Rosehill Drive, Chicago, IL 60660	Consultant, Self	1	25000.00
09/21/2012	Jamie, Seet, 55 Java Street, Brooklyn, NY 11222	Restaurant Manager, The Spotted Pig/ The Rusty Knot	1	200.00
09/12/2012	Bill Smith, 1007 E Capitol Street, SE, Washington, DC 20003	Partner, Civitas Public Affairs Group	1	155.00
		Total cash contributions (this page only) ⇒ ***(combined totals from all Schedule A pages must be listed on Schedule F)***		28865.00

Key Codes:

1 = Individuals

2 = Commercial Source

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4 = Party Committee

5 = Candidate Committees

6 = Unitemized Contributions of $50 or less

Duplicate as needed.

SCHEDULE A (continued)
CASH CONTRIBUTIONS

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
09/18/2012	Dede Tamaro, 203 Baltic Street, Apt. 3C, Brooklyn, NY 11201	Analyst, Standard Bank	1	100.00
09/11/2012	Joy Tomchin, 252 Seventh Avenue, New York, NY 10001	Real Estate Developer, Self	1	5025.00
09/12/2012	Margaret Traub, 145 Hicks Street, Apt. 3A, Brooklyn, NY 11201	President & CEO, Adesso Inc.	1	300.00
09/12/2012	Reanne Viken, 1319 Adams Street, NE, Minneapolis, MN 55413	Supply Chain Planner, Estee Lauder	1	55.00
09/20/2012	Leone Walker, 40 Buckeye, Portola Valley, CA 94028	Business Owner, Self	1	100.00
09/12/2012	Mariann Wang, 77 Willoughby Avenue, Brooklyn, NY 11205	Lawyer, Cuti Hecker Wang	1	150.00
09/20/2012	Shari Weiner, 7 Lynn Court, Morristown, NJ 07039	Attorney, Murphy McKeon, PC	1	100.00
09/20/2012	Kathleen Welch, 148 Tennessee Ave., NE, Washington, DC 20002	Consultant, Corridor Partners, LLC	1	250.00
	Unitemized Contributions		6	1420.00

Total cash contributions (this page only) ⇒ 7500.00
(combined totals from all Schedule A pages must be listed on Schedule F)

Key Codes:

1 = Individuals
2 = Commercial Source
3 = Political Action Committees
4 = Party Committee
5 = Candidate Committees
6 = Unitemized Contributions of $50 or less

Duplicate as needed.

SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE

- Enter all expenditures, including cash contributions from this committee, made to support or oppose a candidate, political action committee, ballot question committee, or party committee.
- Enter all expenditures made to support or oppose a ballot question, referendum, or citizen initiative, including those in signature-gathering phase.
- Enter the name of the candidate, ballot question, or committee supported or opposed by the expenditure and indicate whether the expenditure was made in support or opposition.

If a single expenditure is made to support or oppose multiple candidates, committees, or ballot questions, the expenditure must be itemized by the amount spent per candidate, committee, or question, not as a single expenditure, and each candidate, committee, or ballot question must be identified.

EXPENDITURE TYPES			
CON	Contribution to candidate, party or committee	POL	Polling and survey research
CNS	Campaign consultants	POS	Postage for U.S. Mail and mail box fees
EQP	Equipment (office machines, furniture, cell phones)	PRO	Professional services
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs
LIT	Printing and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.)
PHO	Phone banks, automated telephone calls		

Only these expenditure types require a remark: CNS, OTH, PRO and SAL.

DATE	PAYEE'S NAME AND ADDRESS	REMARKS	TYPE	AMOUNT
10/05/2012	Mainers United for Marriage, P.O. Box 1200, Portland, ME 04104		Con	$40,000.00
	Payment to support ☑ or to oppose ☐: Yes on 1: Mainers United for Marriage			
	Payment to support ☐ or to oppose ☐:			
	Payment to support ☐ or to oppose ☐:			
	Payment to support ☐ or to oppose ☐:			

Total expenditures this page only ⇒ 40,000.00

(combined totals from all Schedule B pages must be listed on Schedule F)

SCHEDULE F
SUMMARY SCHEDULE

CASH ACTIVITY

Receipts	Total for this Period
1. Cash Contributions (Schedule A)	$40,000
2. Other Cash Receipts (interest, etc.)	$0
3. Loans (Schedule C)	$0
4. Total Receipts (lines 1 + 2 + 3)	$40,000
Expenditures	**Total for this Period**
5. Expenditures to Support or Oppose (Schedule B)	$40,000
6. Operating Expenditures (Schedule B-1)	$0
7. Loan Repayment (Schedule C)	$0
8. Total Payments (lines 5 + 6 + 7)	$40,000

CASH SUMMARY

	Total for This Period
9. Cash Balance at Beginning of Period	$0
10. Plus Total Receipts This Period (line 4 above)	$40,000
11. Minus Total Payments This Period (line 8 above)	$40,000
12. Cash Balance at End of Period	$0

OTHER ACTIVITY

	Total for This Period
13. In-Kind Contributions (Schedule A-1)	$0
14. Total Loan Balance at End of Period (Schedule C)	$0
15. Total Unpaid Debts at End of Period (Schedule D)	$0

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

October 17, 2012

By Certified Mail and Email
Ms. Sarah Schmidt, Treasurer
L PAC
P.O. Box 8119
Wilmette, IL 60091

Re: Late Filing of Registration and Campaign Finance Reports

Dear Ms. Schmidt;

The Commission staff has made a preliminary determination that L PAC was late in filing a registration statement with the Commission, as well as both its Initial Campaign Finance Report and October Quarterly Report. Maine law requires entities to register with the Commission within seven (7) days of exceeding $5,000 in contributions or expenditures to influence a ballot question election in Maine. (21-A M.R.S.A. § 1056-B) Maine Law further requires initial reports to be filed at the time of registration. (21-A M.R.S.A. § 1059) L PAC's registration and initial report, filed with the Commission on October 15, 2012, indicate that the $5,000 threshold was exceeded on September 11, 2012. Therefore, L PAC should have registered and filed an initial report on or before September 18, 2012. Based on this registration date, L PAC should also have filed an October Quarterly report on October 5, 2012.

Maine law assesses as $250 penalty for the failure to timely file a registration statement. (21-A M.R.S.A. § 1062-A(1)) Maine law also outlines a penalty structure for late filed reports. For an entity's first violation, a penalty of 1% of the greater of the contributions or expenditures is assessed for each day the report is late. The percentage increases to 3% for the second violation. (21-A M.R.S.A. § 1062-A(3)) Because L PAC's Initial report was filed 27 days late and its October Quarterly report was filed 10 days late, a penalty of $10,925.10 applies. See the attached penalty matrix. In total, a preliminary penalty of $11,175.10 is assessed.

The PAC may make a written request that the Commission waive the penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice. The request must be notarized and contain a full explanation of the reasons the committee registered and filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that the committee made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call me at (207) 287-6221 or send me an email at Matthew.Marett@Maine.gov if you have questions.

Sincerely,

Matthew D. Marett

Matthew Marett
PAC, Party & Lobbyist Registrar

Committee Name:	L PAC	**Report Title:**	Initial Report
		Due Date:	September 18, 2012
Previous Violation(s):	N/A	**Filed Date:**	October 15, 2012

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total Penalty

Your Penalty is calculated as follows:

Contributions / Expenditures:	$35,830.00
	x
Percent Prescribed:	1%
	$358.30
	x
Number of days late:	27
Total penalty accrued:	$9,674.10

Any penalty of less than $10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A(3)
$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds $50,000, the maximum penalty is one-fifth of the amount reported late.

Committee Name:	L PAC	**Report Title:**	October Quarterly
		Due Date:	October 5, 2012
Previous Violation(s):	Initial Report	**Filed Date:**	October 15, 2012

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total Penalty

Your Penalty is calculated as follows:

Contributions / Expenditures:	**$4,170.00**
	x
Percent Prescribed:	**3%**
	$125.10
	x
Number of days late:	**10**
Total penalty accrued:	**$1,251.00**

Any penalty of less than $10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A(3)
$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports,
except that if the financial activity reported late exceeds $50,000,
the maximum penalty is one-fifth of the amount reported late.

Marett, Matthew

From: Marett, Matthew
Sent: Tuesday, October 30, 2012 2:02 PM
To: 'Sarah Schmidt'
Cc: 'reiff@sandlerreiff.com'; Lavin, Paul
Subject: L PAC reporting

Ms. Schmidt,

I received the faxed report for L PAC, but am afraid that given the information we have already received from L PAC and its attorney Neil Reiff, the Commission staff cannot accept it as filed. The report indicates that L PAC had no activity in the period between October 1 and October 23. However, we know from L PAC's initial report and conversations with Attorney Reiff that there is at least one transaction if not more that must be included in the 11-Day Pre-General report. Because the faxed report lacks this information, it cannot be considered filed and the penalty clock has not been stopped.

The late filing of the registration and initial report for L PAC has caused some reporting issues. To make the situation as clear as possible, I have set up a new online reporting screen for L PAC and have completed its reports – initial, October Quarterly, and 11-Day Pre-General – with the information provided from L PAC and Attorney Reiff. I completed the reports using the following constraints:

1) L PAC exceeded $5,000 in contributions on September 11, 2012, and was required to register and file an initial report by September 18, 2012. (21-A M.R.S.A. § 1053)
2) L PAC's initial report includes all contributions received through September 18, 2012 except the $25,000 contribution from Laura Ricketts.
3) The October Quarterly report includes all contributions from September 19, 2012 through September 30, 2012.
4) The 11-Day Pre-General report includes the expenditure of $40,000 to Mainers United for Marriage made on October 5, 2012 – as indicated in the late filed initial report.

<u>The October Quarterly and 11-Day Pre-General reports have not been filed and are awaiting your review.</u> One question that remains is whether L PAC received the $25,000 contribution from Laura Ricketts in the 11-Day Pre-General reporting period – October 1 through October 23. Attorney Reiff suggested that although this contribution has not yet been received, it would be received in the future.

Please log on to the e-filing home page for L PAC by visiting www.mainecampaignfinance.com and clicking the "filer login" button on the upper right hand side of the page. L PAC's user code and password are as follows:

USER CODE
PASSWORD:

Please review the "in-progress" reports and make any changes you see necessary. Once you are confident the reports are accurate, please file the reports. It is to your advantage to review and file the reports before 11:59 p.m. today to stop the penalty clock.

Please call me or send me an email with any questions. I can be reached using the contact information below.

Best,

Matt Marett
Maine Ethics Commission
PAC, Party & Lobbyist Registrar
(207) 287-6221
Matthew.Marett@Maine.gov

RECEIVED
OCT 30 2012
Maine Ethics Commission

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2012 CAMPAIGN FINANCE REPORT

For Political Action Committees

Please complete ALL entries.

NAME OF COMMITTEE	LPAC			☐ CHECK IF CHANGED FROM PREVIOUS REPORT
STREET	601 13th st nw #730n			
CITY AND ZIP CODE	washington dc 20005	TELEPHONE NUMBER	847-276-1584	
E-MAIL	sarah@sarahschmidt.com			
NAME OF TREASURER	Sarah Schmidt			☐ CHECK IF CHANGED FROM PREVIOUS REPORT
MAILING ADDRESS STREET	601 13th st nw #730n			
CITY AND ZIP CODE	washington dc 20005	TELEPHONE NUMBER	847-276-1584	
E-MAIL	sarah@sarahschmidt.com			

Type of Report	Due Date	Dates of Report Period
☐ Initial	Date of Registration	January 1, 2012 — date of registration
☐ April Quarterly	April 10, 2012	January 1, 2012— March 31, 2012
☒ 11-Day Pre-Primary	June 1, 2012	April 1, 2012 — May 29, 2012
☐ 42-Day Post-Primary	July 24, 2012	May 30, 2012 — July 17, 2012
☐ October Quarterly	October 5, 2012	July 18, 2012 — September 30, 2012
☐ 11-Day Pre General	October 26, 2012	October 1, 2012— October 23, 2012
☐ 42-Day Post-General	December 18, 2012	October 24, 2012 — December 11, 2012
☐ January Quarterly	January 15, 2013	December 12, 2012— December 31, 2012

☐ Amendment to: ______________________

☒ **No Activity Report: Use only if the committee had no contributions and no expenditures and did not incur any unpaid debts or obligations during the reporting period. Check the appropriate report above as well.**

☒ **Termination Report: If the committee will have no further activity. Check the appropriate report above as well.**

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

Sarah Schmidt ______________________ 10/30/12 ______________

Treasurer's Signature **Date**

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 2, 2012

By Regular and Certified Mail
Ms. Sarah Schmidt, Treasurer
L PAC
P.O. Box 8119
Wilmette, IL 60091

Re: Late Filing of Registration and Campaign Finance Reports

Dear Ms. Schmidt,

The Commission staff has made a preliminary determination that L PAC (the PAC) was late in filing its 11-Day Pre-General Campaign Finance Report. The report was due by 11:59 p.m. on October 26, 2012, but was not filed until October 30. Under the Commission's statutes, the late filing of a report by a PAC triggers an enforcement process. Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PACs history of violations, the commission staff has determined that a penalty of $8,000.00 is owed. (Please see attached penalty matrix for the calculation).

The PAC may make a written request that the Commission waive the penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice. The request must be notarized and contain a full explanation of the reasons the committee registered and filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that the committee made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call me at (207) 287-6221 or send me an email at Matthew.Marett@Maine.gov if you have questions.

Sincerely,

Matthew Marett
PAC, Party & Lobbyist Registrar

cc: Kate Knox, Esq., by email

Enclosure: Payment Receipt & Penalty Matrix

Payment Receipt

Mail payment to:

The Maine Ethics Commission
135 State House Station
Augusta, ME 04333.

Make checks payable to: "Treasurer, State of Maine."

Ms. Sarah Schmidt, Treasurer L PAC P.O. Box 8119 Wilmette, IL 60091	**Violation:**	Late 11-Day Pre-General
	Amount Due:	$8,000.00
	Payment ID:	1943

Committee Name:	L PAC	**Report Title:**	11-Day Pre-General
		Due Date:	October 26, 2012
Previous Violation(s):	initial and October quarterly	**Filed Date:**	October 30, 2012

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total Penalty

Your Penalty is calculated as follows:

Contributions / Expenditures:	$40,000.00
Percent Prescribed:	x 5%
	$2,000.00
Number of days late:	x 4
Total penalty accrued:	$8,000.00

Any penalty of less than $10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A(3)
$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds $50,000, the maximum penalty is one-fifth of the amount reported late.

207-774-1200 main
207-774-1127 facsimile
bernsteinshur.com

100 Middle Street
PO Box 9729
Portland ME 04104-5029

BERNSTEIN SHUR

COUNSELORS AT LAW

Kate R. Knox
207 228-7229 direct
kknox@bernsteinshur.com

November 7, 2012

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

Re: Request for Determination – L PAC

Dear Mr. Wayne:

Pursuant to 21-A M.R.S.A. § 1062(5), the L PAC ("PAC") hereby requests a determination of the commission staff's preliminary assessment and penalty recommendation regarding the PAC's filing of its initial registration and report and the October quarterly. The PAC further requests that the Commission substantially waive the proposed penalties of $5,426.10.

The PAC acknowledges that due to several factual misunderstandings, the reports referenced above were not timely filed. It also, however, argues that the proposed penalty of $5,426.10 is disproportionate to the errors made and overly penalizes a PAC who was doing it's very best to comply with the law.

FACTS

L PAC is a federally registered political action committee which was formed in June 2012. The PAC formed to support pro-lesbian candidates who are committed to ending discrimination and preserving reproductive freedom. In early fall 2012, the PAC started to consider making contributions to three ballot question campaigns working on a variety of national issues including marriage equality and abortion rights; one of those states was Maine. In September 2012, the PAC posted a message on its Facebook page announcing a "matching challenge" where contributions made would be matched in an effort to raise $40,000 for the Maine marriage equality initiative. Sometime in late September, the PAC met the matching challenge goal and decided to make the contribution. Understanding the complex nature of state campaign finance rules, the PAC contacted its federal attorney, Neil Reiff, for assistance. Unfortunately, when those initial conversations were occurring, the PAC did not mention that the Facebook post already existed; they simply did not know that it mattered or that its existence potentially impacted the legal compliance process.

On or about October 11th, Steve Haber (from Attorney Reiff's office) contacted Commission staff to discuss registration and reporting requirements for the PAC. Mr. Haber explained what the PAC was trying to accomplish and asked for guidance about how to comply with Maine law. At the time, Mr. Haber and Mr. Lavin understood that L PAC was intending to use general treasury money for its contribution to the Maine PAC – neither was aware of the existence of the Facebook post. As a result, Commission staff directed the PAC to pull the names of general donors whose contributions equaled the overall contribution to the Maine campaign.[i] The PAC followed the directives of Commission staff and filed its registration and initial report on October 15, 2012. Unfortunately, at the time of these conversations, commission staff had insufficient information with which to give the correct advice.

After filing its registration and initial report, the PAC received a notice of late filing of registration and campaign finance reports. The PAC immediately contacted Commission staff and was told that and independent investigation by commission staff had located the Facebook matching challenge posts and that staff was considering those posts Maine specific fundraising which triggered earlier registration and reporting requirements.

Through later conversations with PAC staff, it became clear that the PAC had put forth a "matching challenge" on its Facebook page urging donors to consider making a donation which would then be used to support the Maine initiative. At the time of the posts (early September), the PAC was not yet certain it would be able to raise enough money to make the $40,000 contribution to Mainers United. Not understanding that early registration and reporting would be triggered by the Facebook posts (as campaign specific *fundraising* of over $5,000), it did not occur to the PAC staff to mention the posts specifically to any of the parties assisting with compliance. They simply did not understand (and it did not occur to them) that a social media post was something they should bring to the attention of the parties. There was no effort to hide either the contribution or the fundraising – this is simply a case of a brand new PAC not understanding the legal implications of a Facebook post.

THE LATE FILING

Individuals or organizations that raise or spend in excess of $5,000 for the purpose of supporting or influencing a ballot question are required to register with the Commission. 21-A M.R.S.A. § 1056(B). Fundraising for an organization's general treasury does not necessarily trigger reporting requirements if, at the time it was raised, it was done with the intent of supporting all the organization's priorities.

As described above, L PAC raises money primarily to support individual candidates who support their priorities nationwide. Fundraising is generally done in a variety of ways with outreach to supporters via fundraising events and targeted fundraising mailings and phone calls to donors. The PAC also occasionally utilizes its Facebook page to inform supporters about its efforts and encourage them to make donations.

In this instance, the PAC did not undertake any traditional fundraising avenues (events or mailings) to raise money for the Maine campaign. They did, however, post a "matching challenge" to their Facebook page urging supporters to contribute to the Maine efforts in mid-September. Total donations from that post exceeded the $5,000 threshold on September 11, 2012. As a result, the PAC acknowledges that under the provisions of the statute, it should have registered on September 18, 2012. The oversight was a result of the PAC's inexperience with Maine's law; it's misunderstanding about the provisions governing registration and the unusual way with which it went about fundraising for the Maine campaign.

ISSUANCE OF PENALTIES

Pursuant to 21-A M.R.S.A. § 1062-A(2), the commission may waive penalties for late reporting in whole or in part based on three separate factors including the level of experience of the Treasurer, harm suffered to the public and other mitigating factors.

Maine law states that the commission may waive penalties when they are "disproportionate to the level of experience of the person filing the report." 21-A M.R.S.A. § 1062-A(2). The federal PAC has only been in existence for five months and no one involved in the PAC has deep experience in campaign finance issues. In this instance, the PAC's Treasurer, Sarah Schmidt, has never been involved in a Maine PAC. She is unfamiliar with state campaign finance filing in general and the filings involved in this matter were her first official action as Treasurer. As a result, the proposed penalty of $5,426.10 is highly disproportionate to her level of experience.

The commission may also reduce or waive penalties when the amount of the proposed penalty is disproportionate to the harm suffered by the public. Id. In general, harm to the public is suffered most significantly when contributions made to influence Maine elections are not transparent. Campaign finance laws are designed to provide the public with information about who is spending money to influence elections and that information should be provided in a timely manner. Here, the PAC made a single contribution to Mainers United and reported that *contribution* publicly within ten days. The confusion around this PAC's reporting is not related to the reporting of the single expenditure but instead around the type of fundraising it conducted and the ways that fundraising impacted its reporting requirements. The expenditure itself was reported and available for public review with 10 days of its occurrence. Additionally, the PAC made every effort to properly disclose its individual donors. There was no attempt to hide donors or to circumvent the reporting of individual names or contribution amounts. Members of the public who wished to see the PAC activities did have access to that information, both on the contribution and expenditure side. This information was available more than three weeks before Election Day – more than enough time for the public to understand that the PAC was participating in the Maine ballot question. Given these facts, the proposed $5,426.10 penalty is highly disproportionate to any harm suffered by the public.

Finally, the commission may waive or reduce penalties if they determine that "mitigating circumstances" influenced the late filing. In this case, the PAC understood that they had to comply with Maine law and reached out to commission staff for guidance about the requirements. The registration and initial report were completed based on advice and guidance from the staff. At the time, the PAC thought they were exercising all due diligence in contacting the staff, asking questions and completing the reports as directed.

Unfortunately, the PAC did not understand that the Facebook matching challenge would have any impact on its reporting requirements. While there were several contacts between the PAC and Commission staff – it was not clear in those discussions that Maine specific fundraising was being conducted on Facebook. The PAC simply did not understand that social media posts would be the type of activity to trigger the earlier reporting deadline. The PAC thought it was doing it's very best to comply and reached out to the staff for assistance. The staff was helpful and gave advice based on the facts before it. Unfortunately, the lack of information about the Facebook posts made the advice incomplete and the PAC finds itself now facing a very large penalty.

L PAC acknowledges that the filing of its registration and initial report did not meet the statutory deadlines. The late filings were completely unintentional and were unfortunately based on a lack of information and misunderstanding about the Facebook postings and the impact those postings would have on their obligations to this Commission. The PAC contends that the proposed $5426.10 penalty is vastly disproportionate to the violation especially given the minimal harm to the public, the inexperience of the Treasurer and the attempts by the PAC to confer with commission staff. In light of all the above, the PAC respectfully requests that this Commission substantially reduce the proposed penalty.

Sincerely,

Kate R. Knox

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[i] L PAC made only one donation in Maine. $40,000 was contributed to Mainers United for Marriage ("Mainers United") on October 5, 2012.

Janet L. Davis, Notary Public
My Commission Expires: 01/18/14

207-774-1200 main
207-774-1127 facsimile
bernsteinshur.com

BERNSTEIN SHUR

COUNSELORS AT LAW

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

Kate R. Knox
207 228-7229 direct
kknox@bernsteinshur.com

November 16, 2012

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

Re: 2nd Request for Determination – L PAC (11-Day Pre General Report)

Dear Mr. Wayne:

Pursuant to 21-A M.R.S.A. § 1062(5), the L PAC ("PAC") hereby requests a determination of the commission staff's preliminary assessment and penalty recommendation regarding the PAC's filing of its 11-Day Pre General Report. The PAC further requests that the Commission waive the proposed penalty of $8,000.

The PAC acknowledges that it filed its 11-Day Pre General Report ("11-Day Report") four (4) days late but argues that there are no applicable contributions or expenditures occurring in that time period (and not previously disclosed) on which to calculate a fine. As a result, the PAC believes the proposed $8,000 penalty is disproportionate to any unintentional errors made and asks for a complete waiver of the proposed fine.

FACTS

L PAC is a federally registered PAC who made a one-time contribution to Mainers United for Marriage PAC ("Mainers United") in October 2012. The facts and circumstances of that donation are already fully before this Commission and outlined in the PAC's November 7, 2012 determination request.

As you are aware, the PAC filed its Initial Report with this Commission on October 16, 2012. That report included all activity from January 1, 2012 to October 16, 2012 – including all contributions and expenditures in that time period. In fact, the only transaction which occurred in October was the one-time contribution to Mainers United for $40,000 which occurred on October 5, 2012.

On October 30, 2012 (four days after the October 26, 2012 deadline), the PAC faxed a "no activity" report for the required 11-Day Report. While the reporting period for that report covered October 1, 2012 to October 26, 2012 – the PAC understood that the report was only asking for activity *not previously disclosed* on its Initial Report.

On October 30, 2012, Matt Marett communicated with the PAC informing them that based on their Initial Report "there is at least one transaction if not more that must be included in the 11-Day Pre General Report."

After discussions with commission staff, it became clear that the PAC was being asked to *re-report* the October 5, 2012 contribution which was already reported in the Initial Report. The PAC, with assistance from commission staff, then refiled the 11-Day Report.

The PAC contends that the no activity report, while late, was in fact accurate. There had been no activity since October 16, 2012 (the date of the Initial Report) and October 30, 2012 (the end of the reporting period). They did not understand (nor does it make accounting sense[1]) that they were expected to report the October 5, 2012 contribution on *both* the Initial Report and then again 11-Day Report. As a result, the PAC believes that the issuance of any penalty in this case is unwarranted and disproportionate to any inadvertent misunderstanding of the report requirements.

ISSUANCE OF PENALTIES

Pursuant to 21-A M.R.S.A. § 1062-A(2), the commission may waive penalties for late reporting in whole or in part based on three separate factors including the level of experience of the Treasurer, harm suffered to the public and other mitigating factors.

Maine law states that the commission may waive penalties when they are "disproportionate to the level of experience of the person filing the report." 21-A M.R.S.A. § 1062-A(2). The federal PAC has only been in existence for five months and no one involved in the PAC has deep experience in campaign finance issues. In this instance, the PAC's Treasurer, Sarah Schmidt, has never been involved in a Maine PAC. She is unfamiliar with state campaign finance filing in general and the no activity report filing is completely understandable given the information contained on the Initial Report. As a result, the proposed penalty of $8,000 is highly disproportionate to her level of experience.

The commission may also reduce or waive penalties when the amount of the proposed penalty is disproportionate to the harm suffered by the public. Id. In general, harm to the public is suffered most significantly when contributions made to influence Maine elections are not transparent. Campaign finance laws are designed to provide the public with information about who is spending money to influence elections and that information should be provided in a timely manner. In this case, the $40,000 contribution at issue had already been disclosed on the PAC's initial report. This is not a case of the PAC hiding its expenditures – it believed it had already disclosed that information on an earlier report and did not see the logic in double reporting expenditures. There was simply no harm to the public in this case. The public already had full and detailed access to the PAC's political activities in Maine.

---

[1] Reporting the $40,000 contribution on both the Initial Report and the 11-Day Report would result in the summary page showing total expenditures of $80,000 – which is not accurate.

Finally, the commission may waive or reduce penalties if they determine that "mitigating circumstances" influenced the late filing. In this case, the PAC argues its report was accurate – there was no additional activity to report on the 11-Day Report which had not previously been reported. The PAC made a bona-fide effort to correctly file the report and should not now be penalized for a logical interpretation of what the 11-Day Report should include.

Pursuant to 21-A M.R.S.A §1062(A)(3), late filing penalties are calculated based on a "percentage of the total contributions or expenditures for the filing period." In this case, there were no previously undisclosed contributions or expenditures to report in this time period. As a result, while the no activity report was late – it should not be subject to financial penalties as outlined under the statute.

For all the above reasons, the PAC requests a full waiver from the proposed $8,000 fine.

Sincerely,

Kate R. Knox

Janet L. Davis, Notary Public
My Commission Expires: 01/18/14

LPAC

November 19, 2012

601 13th Street, NW
Suite 730N
Washington, DC 20005

Re: Mainers United for Marriage LPAC Filing

To Whom It May Concern:

LPAC is a federally registered political action committee that was formed in June 2012.

On July 11, 2012, Laura Rickets made a contribution to LPAC's general treasury in the amount of $35,000. The LPAC board decided to apply, $25,000 of the $35,000 general treasury donation from Rickets towards the Mainers United for Marriage "matching challenge" where contributions raised online would be matched to raise funds for the Maine marriage equality initiative. A portion of the Rickets general treasury donation received on July 11, 2012, was therefore included in the $40,000 gift LPAC gave to Mainers United for Marriage on October 5, 2012.

Sincerely,

Sarah Schmidt
Chair and Treasurer of LPAC

207 774-1200 main
207 774-1127 facsimile
bernsteinshur.com

BERNSTEIN SHUR

COUNSELORS AT LAW

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

Kate R. Knox
207 228-7229 direct
kknox@bernsteinshur.com

November 20, 2012

VIA EMAIL

Jonathan Wayne
Executive Director
Maine Commission of Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333

Re: L PAC Response to Questions – Anya Trundy

Dear Mr. Wayne:

Below please find the answers to the three questions posed to L PAC in your letter dated November 15, 2012.

1) At the time that L PAC registered, did L PAC expect that Anya Trundy would be involved in the PAC?

   No, there was never any expectation that Ms. Trundy would be actively involved in the PAC.

2) Was Ms. Trundy, in fact, involved in the PAC?

   Ms. Trundy was not involved in the PAC, except to assist the PAC with the bank processing of the donation for Mainers United for Marriage ("Mainers United"). Ms. Trundy had initial contact with the PAC when they approached Mainers United about making a contribution. Ms. Trundy filled out paperwork from L PAC, including the bank information to facilitate a wire transfer – that was the extent of her involvement with L PAC.

3) Was the inclusion of Ms. Trundy's email address as the contact email for LPAC an error by the PAC's Treasurer, Sarah Schmidt?

   The inclusion of Ms. Trundy's name of the paperwork was due to a misunderstanding about what the registration form was requesting. L PAC thought they were required to list a representative of Mainers United on the form as a local contact and as the primary Committee with which L PAC was interacting. The

> *inclusion of Ms. Trundy's name was never meant to indicate that she was involved in the administration of L PAC.*

We hope these answers sufficiently answer your questions. Please do not hesitate to contact me if you need further information.

Sincerely,

Kate R. Knox

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

November 30, 2012

By Regular Mail, Facsimile and E-mail

Kate R. Knox, Esq.
Bernstein, Shur, Sawyer & Nelson, P.A.
100 Middle Street
P.O. Box 9729
Portland, Maine 04104-5029

RE: L PAC – Request for Additional Information

Dear Ms. Knox:

Thank you for your willingness and cooperation in agreeing to a postponement of the Commission's consideration of the waiver request made by L PAC on November 8, 2012. As the Commission staff reviewed the available information (L PAC's initial report filed with the Commission, your correspondence, L PAC's FEC October Quarterly report, and its Facebook page), we concluded that we needed further clarification regarding the contributions L PAC reported to the Commission in its initial report filed on October 15, 2012 (Initial Report). This additional information may impact the staff's assessment of whether L PAC was required to register and file reports with the Commission, and what penalty amounts, if any, should be assessed against L PAC for late-filed reports. Accordingly, the Commission staff requests that L PAC respond in writing to the questions below by December 7, 2012. We apologize for the short time frame for your response. If you do not believe that it will be possible to respond by December 7th, please let me know.

1) On September 12, 2012, L PAC posted a link – www.teamlpac.com/maine – on its Facebook page requesting donations to support the same sex marriage initiative on the November 2012 Maine Ballot (Maine initiative).

    a. When did L PAC begin accepting contributions through teamlpac.com/maine?

    b. When did L PAC stop accepting contributions through teamlpac.com/maine?

2) In addition to the teamlpac.com/maine appeal, were there other solicitations by L PAC to raise money to support the Maine initiative? If there were other solicitations, when and how were they made and how much money did they raise?

3) L PAC's Initial Report shows that it received 32 contributions over $50 and $1,420 in un-itemized contributions specifically for the purpose of influencing the Maine initiative.

   a. Were all the contributions listed on the Initial Report specified by the donor to be used to influence the Maine initiative or made in response to a specific solicitation for contributions to influence the Maine initiative?

   b. If not, please specifically identify which contributors listed in the Initial Report made contributions in response to a Maine specific appeal, and how much they contributed. If possible, please include a report of contributions received by L PAC through teamlpac.com/maine from Salsa Labs, and any other reports from similar data management features associated with L PAC's Maine specific fundraising efforts.

4) Did L PAC receive any contributions, other than those listed in its Initial Report, for the purpose of supporting the Maine initiative?

5) What was the total amount of contributions L PAC received as a result of the teamlpac.com/maine appeal and other appeals to support the Maine initiative?

6) The teamlpac.com/maine appeal includes a statement from Laura Ricketts, an L PAC advisory board member, that she will match contributions received through September 20, 2012 up to $25,000. A letter from L PAC to the Commission on November 19, 2012 explains that L PAC's board decided to apply a portion of a $35,000 general treasury contribution made by Ms. Ricketts on July 11, 2012 to the matching challenge.

   a. At the time of the July 11, 2012 contribution, did either Ms. Ricketts or L PAC intend for all or a portion of Ms. Rickett's contribution to be used to support the Maine initiative?

   b. According to the FEC October Quarterly report, Ms. Ricketts also donated $150,000 to L PAC – through two contributions – on September 28, 2012. Were these or any portion of these contributions intended, either by Ms.

Ricketts or L PAC, to be used for the matching challenge or otherwise to support the Maine initiative?

c. If the $25,000 used for the matching challenge was not a part of any of the above mentioned contributions, has L PAC received a separate $25,000 contribution from Ms. Ricketts and when did L PAC receive it?

7) L PAC's FEC October Quarterly report shows a $15,000 contribution from Joy Tomchin to L PAC on September 11, 2012. L PAC's Initial Report shows a $5,025 contribution from Ms. Tomchin to L PAC on the same date.

a. Did Ms. Tomchin make the $15,000 contribution with the express purpose to support the Maine initiative or in response to a specific solicitation for contributions to support the Maine initiative, such as the teamlpac.com/maine appeal or by another method?

b. Is the $5,025 contribution reported on the Initial Report a portion of the $15,000 contribution reported on the FEC report or a separate contribution that was not included in the FEC report?

c. If it was a portion of the $15,000 contribution, did Ms. Tomchin specify that $5,025 or any other amount be used to support the Maine initiative?

d. If it was a separate contribution, was Ms. Tomchin's $5,025 contribution given with the express purpose to support the Maine initiative or in response to a specific solicitation for contributions to support the Maine initiative, such as the teamlpac.com/maine appeal or by another method?

8) L PAC's Initial Report shows a $2,500 contribution from Leigh Morgan to L PAC on September 16, 2012. Did Ms. Morgan make the contribution with the express purpose to support the Maine initiative or in response to a specific solicitation for contributions to support the Maine initiative, such as the teamlpac.com/maine appeal or by another method?

9) Did Sarah Schmidt or any other L PAC representative have specific discussions with Laura Ricketts, Joy Tomchin or Leigh Morgan about making a contribution specifically to support the Maine initiative?

10) Did Sarah Schmidt or any other L PAC representative have specific discussions with Laura Ricketts, Joy Tomchin or Leigh Morgan regarding how their contributions would be used to support the Maine initiative?

11) Why are there 16 contributors included in L PAC's Initial Report that are not included in L PAC's FEC October Quarterly report?

12) Are there contributors listed in L PAC's FEC report that gave money for the purpose of influencing the Maine initiative that are not listed in L PAC's Initial Report? Specifically, were any other contributions received during the period of September 12th to September 20th and reported in the FEC report specified by the donor to be used to support the Maine initiative or given in response to a solicitation for contributions to support the Maine initiative?

13) Has L PAC filed state campaign finance reports in any state other than Maine? If so, please identify those states.

Thank you for your cooperation in this matter. Again, if you believe you will not be able to respond to these questions by December 7th, please let me know. Please direct any questions about this request to me at (207) 287-6221 or Matthew.Marett@Maine.gov.

Sincerely,

Matthew W. Marett

Matthew Marett

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DEC 07 2012
BY:

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December 7, 2012

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333

Re: L PAC Response to Questions
"Request for Additional Information" dated 11/30/2012

Dear Mr. Wayne:

Below please find the answers to the questions posed to L PAC in your letter dated November 30, 2012.

1) On September 12, 2012, L PAC posted a link – www.teamlpac.com/maine - on its Facebook page requesting donations to support the same sex marriage initiative on the November 2012 Maine Ballot (Maine Initiative).

   a. When did L PAC begin accepting contributions through teamlpac.com/maine?
      - *September 12, 2012*

   b. When did L PAC stop accepting contributions through teamlpac.com/maine?
      - *September 21, 2012*

2) In addition to the teamlpac.com/maine appeal, were there other solicitations by L PAC to raise money to support the Maine initiative? If there were other solicitations, when and how were they made and how much money did they raise?
   - *Yes –there were email blasts to members during the challenge period (no direct mail, phone banks).*

3) L PAC'S Initial Report shows that it received 32 contributions over $50 and $1,420 in un-itemized contributions specifically for the purpose of influencing the Maine Initiative.

a. Were all the contributions listed on the Initial Report specified by the donor to be used to influence the Maine Initiative or made in response to a specific solicitation for contributions to influence the Maine Initiative?
   - *L PAC considered all contributions (with the exception of one pledge fulfillment) received during the challenge period to be specified for the Maine campaign. As a result, all contributions (with the one exception) were listed on the Initial Report.*

b. If not, please specifically identify which contributors listed in the Initial Report made contributions in response to a Maine specific appeal, and how much they contributed. If possible, please include a report of contributions received by L PAC through teamlpac.com/maine from Salsa Labs, and any other reports from similar data management features associated with L PAC's Maine specific fundraising efforts.
   - *See above. L PAC has disclosed all the Maine donors over $50 and is sensitive to the desire of its small donors (under $50) to remain anonymous. The report from Salsa Labs discloses all donors and as such, L PAC would prefer not to include a copy of the report in its public submissions.*

4) Did L PAC receive any contributions, other than those listed in its Initial Report, for the purpose of supporting the Maine Initiative?
   - *The only additional donation was the fulfillment of Ms. Rickett's $25,000 pledge – which was received on October 26, 2012.*

5) What was the total amount of contributions L PAC received as a result of the teamlpac.com/maine appeal and other appeals to support the Maine Initiative?
   - *$9661.00 (plus Ms. Ricketts $25,000 matching contribution)*

6) The teamlpac.com/maine appeal includes a statement from Laura Ricketts, an L PAC advisory board member, that she will match contributions received through September 20, 2012 up to $25,000. A letter from L PAC to the Commission on November 19, 2012 explains that L PAC's Board decided to apply a portion of a $35,000 general treasury contribution made by Ms. Ricketts on July 11, 2012 to the matching challenge.

a. At the time of the July 11, 2012 contribution, did either Ms. Ricketts or L PAC intend for all or a portion of Ms. Rickett's contribution to be used to support the Maine initiative.
   - *No.*

b. According to the FEC October Quarterly report, Ms. Ricketts also donated $150,000 to L PAC – through two contributions – on September 28, 2012. Were these or any portion of these contributions intended, either by Ms. Ricketts or L PAC, to be used for the matching challenge or otherwise to support the Maine Initiative?
   - *No.*

c. If the $25,000 used for the matching challenge was not a part of any of the above mentioned contributions, has L PAC received a separate $25,000 contribution from Ms. Ricketts and when did L PAC receive it?
   - *The matching challenge pledge was paid by Ms. Ricketts on October 26, 2012 as part of a total $57,500 contribution made to L PAC on that date.*

7. L PAC's FEC October Quarterly report shows a $15,000 contribution from Joy Tomchin to L PAC on September 11, 2012. L PAC's Initial Report shows a $5025 contribution from Ms. Tomchin to L PAC on the same date.

   a. Did Ms. Tomchin make the $15,000 contribution with the express purpose to support the Maine Initiative or in response to a specific solicitation for contributions to support the Maine Initiative, such as the teamlpac.com/maine appeal or by another method?
      - *No. The $15,000 contribution was made to the general treasury and L PAC decided to apply $5025 of that contribution specifically to the Maine campaign.*

   b. Is the $5,025 contribution reported on the Initial Report a portion of the $15,000 contribution reported on the FEC report or a separate contribution that was not included in the FEC report?
      - *Yes.*

   c. If it was a portion of the $15,000 contribution, did Ms. Tomchin specify that $5,025 or any other amount be used to support the Maine Initiative?
      - *No.*

   d. If it was a separate contribution, was Ms. Tomchin's $5,025 contribution given with the express purpose to support the Maine Initiative or in response to a specific solicitation for contributions to support the Maine Initiative, such as the teamlpac.com/maine appeal or by another method?
      - *N/A – See above answers.*

8. L PAC's Initial Report shows a $2,500 contribution from Leigh Morgan to L PAC on September 16, 2012. Did Ms. Morgan make the contribution with the express purpose to support the Maine Initiative or in response to a specific solicitation for contributions to support the Maine Initiative, such as teamlpac.com/maine appeal or by any other method?
   - *No. L PAC choose to count the contribution toward the Maine campaign because it was given during the challenge period.*

9. Did Sarah Schmidt or any other L PAC representative have specific discussions with Laura Ricketts, Joy Tomchin or Leigh Morgan about making a contribution specifically to support the Maine Initiative?
   - *Tomchin – No.*
   - *Morgan – No.*
   - *Ricketts – Yes, she was the challenger grantor.*

10. Did Sarah Schmidt or any other L PAC representative have specific discussions with Laura Ricketts, Joy Tomchin or Leigh Morgan regarding how their contributions would be used to support the Maine Initiative?
    - *Ricketts – Yes, she was the challenge grantor.*
    - *Tomchin – No*
    - *Morgan – Yes, she was simply notified that her contribution would be used toward the Maine challenge because it had been given during the challenge period.*

11. Why are there 16 contributors included in L PAC's Initial Report that are not included in L PAC's FEC October Quarterly report?
    - *The FEC itemization threshold is $200 while Maine's is $50. 15 contributors were itemized on the Maine report who were not required to be itemized on the FEC report.*

12. Are there contributors listed in L PAC's FEC report that gave money for the purpose of influencing the Maine Initiative that are not listed in L PAC's Initial Report? Specifically, were any other contributions received during the period of September 12th to September 20th and reported in the FEC report specified by the donor to be used to support the Maine Initiative or given in response to a solicitation for contributions to support the Maine Initiative?
    - *No.*

13. Has L PAC filed state campaign finance reports in any other state than Maine? If so, please identify those states.
    - *L PAC filed reports in Florida, Washington and Vermont and will be filing a report in Michigan in January 2013 (for activity in this election cycle). Maine was their first experience dealing with state campaign finance laws.*

Sincerely,

Kate R. Knox

KRK